



Preparatory Commission for the International Criminal Court

1 May 2002

English

Original: Arabic/English

New York
8-19 April 2002

Report of the Preparatory Commission for the International Criminal Court (continued)

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Introduction

1. The Preparatory Commission for the International Criminal Court, established in accordance with resolution F adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, continued to carry out its mandate, in accordance with resolution F of the Conference and General Assembly resolution 56/85 of 12 December 2001, to discuss ways to enhance the effectiveness and acceptance of the Court.
2. In accordance with General Assembly resolution 56/85, the Preparatory Commission met at United Nations Headquarters for its ninth session from 8 to 19 April 2002.
3. The Bureau, as elected by the Preparatory Commission at its 1st and 2nd meetings, on 16 and 22 February 1999, continued to act as the Bureau of the Commission at its ninth session. At its 34th and 37th meetings, on 8 and 19 April 2002, the Commission elected Mirza Kustjugic (Bosnia and Herzegovina) and Enver Daniels (South Africa) as Vice-Chairmen of the Commission.
4. At its fifth session, from 12 to 30 June 2000, the Preparatory Commission had adopted a report on the work of the Commission at its first to fifth sessions,¹ to which was annexed the finalized draft texts of the Rules of Procedure and Evidence (PCNICC/2000/1/Add.1) and of the Elements of Crimes (PCNICC/2000/1/Add.2).
5. At its eighth session, at the 33rd meeting, on 5 October 2001, the Preparatory Commission had adopted a further report on the work of the Commission at its sixth, seventh and eighth sessions containing, in accordance with paragraph 5 of resolution F of the Conference, the draft texts of the Relationship Agreement between the Court and the United Nations, the Financial Regulations, the Agreement on the Privileges and Immunities of the Court, and the Rules of Procedure of the Assembly of States Parties.² That report also contained as annexes two draft resolutions of the Assembly of States Parties, one on the establishment of the Committee on Budget and Finance, and the other on relevant criteria for voluntary contributions to the International Criminal Court.
6. At its ninth session, at the 37th meeting, on 19 April 2002, the Preparatory Commission adopted the present report on the work of the Commission at its ninth session, containing also in accordance with paragraph 5 of resolution F of the Conference, the draft texts of the basic principles governing a headquarters agreement to be negotiated between the Court and the host country and the Financial Rules.
7. The draft texts had been prepared in the context of working groups of the Preparatory Commission. To facilitate the tasks of the Commission, the Chairman, in consultation with the Bureau, had designated the following as coordinators of the working groups:
 - Zolt Hetesy (Hungary), Coordinator for the Working Group on Basic Principles Governing a Headquarters Agreement to be Negotiated between the Court and the Host Country;
 - Christian Much (Germany), Coordinator for the Working Group on Financial Rules.

8. The present report also contains in annexes I and II two draft resolutions of the Assembly of States Parties, one on the Secretariat of the Assembly of States Parties, and the other on crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court.

9. Also at its 37th meeting, the Preparatory Commission agreed to include in its report the following, which was raised with respect to the report of the Working Group on the Basic Principles Governing a Headquarters Agreement to be Negotiated between the Court and the Host Country:

– In connection with the discussions on the basic principles governing a headquarters agreement to be negotiated between the Court and the host country, a question was raised concerning the relevant principles to be applied to the Assembly of States Parties. However, the Working Group did not have sufficient time to consider the issue in all its aspects. The attention of the Assembly is therefore drawn to this important issue with a recommendation that the Assembly examine it.

10. At the 36th meeting, on 15 April 2002, the Preparatory Commission took note of the proceedings of an inter-sessional meeting of experts held at The Hague from 11 to 15 March 2002, and recommended that the report of the meeting³ be transmitted to the Assembly of States Parties for onward transmission to the International Criminal Court.

11. At its 37th meeting, the Preparatory Commission agreed with the technical corrections to the Financial Regulations identified by the Working Group on Financial Issues — Financial Rules, and requested the Secretariat to issue a corrigendum, as appropriate.⁴

12. The Preparatory Commission noted with satisfaction that, during its ninth session, a total of 16 delegates had made use of the trust fund which, pursuant to paragraph 8 of General Assembly resolution 53/105 of 9 December 1999, had been established to facilitate the participation of the least developed countries in the work of the Commission. The International Human Rights Law Institute of DePaul University (United States of America) provided accommodation to delegates from the least developed countries who attended the ninth session.

13. The Preparatory Commission was addressed by His Excellency Arthur Robinson, President of Trinidad and Tobago, at its 35th meeting, on 11 April 2002.

14. The list of documents relating to the draft basic principles governing a headquarters agreement to be negotiated between the Court and the host country and the draft Financial Rules is contained in annex III to the present report.

Notes

- ¹ PCNICC/2000/1 and Add.1 and 2. The first to fifth sessions of the Preparatory Commission were held from 16 to 26 February, 26 July to 13 August and 29 November to 17 December 1999 and from 13 to 31 March and 12 to 30 June 2000.
- ² PCNICC/2001/1 and Add.1-4; see also note 4 below. The sixth to eighth sessions of the Preparatory Commission were held from 27 November to 8 December 2000, 26 February to 9 March 2001 and 24 September to 5 October 2001.
- ³ See PCNICC/2002/INF/2.
- ⁴ The corrigendum is issued as document PCNICC/2001/1/Add.2/Corr.1.

Part I

**Draft basic principles governing a headquarters agreement
to be negotiated between the Court and the host country**

[See PCNICC/2002/1/Add.1]

Part II

Draft Financial Rules

[See PCNICC/2002/1/Add.2]

Annex I

Draft resolution of the Assembly of States Parties concerning the provisional arrangements for the Secretariat of the Assembly of States Parties

The Assembly of States Parties,

Bearing in mind article 112 of the Rome Statute of the International Criminal Court, regarding the Assembly of States Parties,

Taking note of rules 6, 9, 10, 11, 14, 24, 28, 37, 41, 42, 48, 56, 62 and 95 of its Rules of Procedure, providing also specific functions for the Secretariat of the Assembly of States Parties,

Desiring to provide adequate secretariat services for the Assembly of States Parties,

Noting that it is difficult to anticipate at this early stage all the functions of its Secretariat,

Convinced of the need to maintain continuity in the work of the Assembly of States Parties,

1. *Decides* that arrangements shall be made for the Secretariat of the United Nations to continue to carry out the secretariat functions of the Assembly of States Parties on a provisional basis;

2. *Decides also* that such arrangements shall be made on the basis of full reimbursement to the United Nations of such expenses that might accrue to the United Nations;

3. *Decides further* to request the Secretary-General of the United Nations to continue carrying out the secretariat functions of the Assembly of States Parties on a provisional basis and to inform the Assembly of States Parties of the detailed arrangements thereon at its next session.

Annex II

Draft resolution of the Assembly of States Parties on crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court

The Assembly of States Parties,

Bearing in mind article 112, paragraph 2 (a) and (d), and article 115 (a) of the Rome Statute,

Noting that a United Nations trust fund was established to cover the expenses which would accrue to the United Nations as a result of convening the first meeting of the Assembly of States Parties,

Decides to request the Secretary-General of the United Nations to provide information to the Assembly of States Parties concerning all contributions made to the Trust Fund,

Decides also that contributions made by States to the Trust Fund should serve as a credit against future assessments against the budget of the Court.

Annex III

List of documents relating to the draft basic principles governing a headquarters agreement to be negotiated between the Court and the host country and the draft Financial Rules, issued at the eighth and ninth sessions of the Preparatory Commission, held in 2001 and 2002*

[Original: Arabic/English/French]

General documents

Eighth session of the Preparatory Commission (24 September-5 October 2001)

<i>Symbol</i>	<i>Description</i>
PCNICC/2001/L.3	Proceedings of the Preparatory Commission at its eighth session (draft summary)
PCNICC/2001/L.3/Rev.1	Proceedings of the Preparatory Commission at its eighth session
PCNICC/2001/INF/4	List of delegations (eighth session)

Ninth session of the Preparatory Commission (8-19 April 2002)

<i>Symbol</i>	<i>Description</i>
PCNICC/2002/L.1	Proceedings of the Preparatory Commission at its ninth session (8-19 April 2002) (draft summary)
PCNICC/2002/L.1/Rev.1	Proceedings of the Preparatory Commission at its ninth session (8-19 April 2002) (summary)
PCNICC/2002/L.2	Draft report of the Preparatory Commission for the International Criminal Court (continued)
PCNICC/2002/INF/6	List of delegations (ninth session)

* See document PCNICC/2002/L.1/Rev.1, annex I, for the list of general documents and the documents of the Working Group on a Draft Budget for the First Financial Year of the Court, the Working Group on Financial Issues — Remuneration of Judges, the Working Group on Financial Issues — Victims Trust Fund, the Working Group on Assembly of States Parties — Preparatory Documents, as well as documents relating to the crime of aggression.

Working Group on the Basic Principles Governing a Headquarters Agreement to be Negotiated between the Court and the Host Country

*Eighth session of the Preparatory Commission (24 September-5 October 2001)*¹

<i>Symbol</i>	<i>Description</i>
PCNICC/2001/WGHQA/L.1	Basic principles governing an agreement to be negotiated between the International Criminal Court and the Kingdom of the Netherlands regarding the headquarters of the Court (prepared by the Secretariat)

Ninth session of the Preparatory Commission (8-19 April 2002)

<i>Symbol</i>	<i>Description</i>
PCNICC/2002/WGHQA/L.1	Report of the Working Group
PCNICC/2002/WGHQA/RT.1	Basic principles governing an agreement to be negotiated between the International Criminal Court and the Kingdom of the Netherlands regarding the headquarters of the Court: Discussion paper proposed by the Coordinator
PCNICC/2002/WGHQA/RT.1/Rev.1	Revision

Working Group on Financial Issues – Financial Rules

*Ninth session of the Preparatory Commission (8-19 April 2002)*²

<i>Symbol</i>	<i>Description</i>
PCNICC/2002/WGFI-FR/L.1	Report of the Working Group — Draft Financial Rules
PCNICC/2002/WGFI-FR/DP.1	Proposal submitted by the Philippines concerning rules 109.1 (b), 109.2, 109.3 (a), 109.4 and 109.5 (a) of the draft financial rules as contained in document PCNICC/2002/WGFI/RT.1/Rev.1
PCNICC/2002/WGFI/RT.1	Draft Financial Rules of the International Criminal Court: Discussion paper proposed by the Focal Point
PCNICC/2002/WGFI/RT.1/Rev.1	Draft Financial Rules: Discussion paper proposed by the Coordinator

¹ No documents were issued under this heading during the first to seventh sessions of the Preparatory Commission.

² No documents were issued under this heading during the first to eighth sessions of the Preparatory Commission.

26 April 2002

Original: English

New York
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Report of the Preparatory Commission for the International Criminal Court (continued)

Addendum

Part I

Draft basic principles governing a headquarters agreement to be negotiated between the Court and the host country

Preamble

The Assembly of States Parties,

Bearing in mind that, in accordance with article 3, paragraph 2, of the Rome Statute, the Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf,

Approves the following basic principles to govern the preparation of such a headquarters agreement:

I. General principles governing the headquarters agreement

1. Preparation of the headquarters agreement should be governed by the following general principles:

(a) Upon the establishment of the Court, the Government of the Netherlands and the Court should enter, as quickly as possible, into negotiations regarding the conclusion of the headquarters agreement by designating for this purpose their contact points and should proceed with these negotiations in an expeditious manner;

(b) The headquarters agreement should be based on the relevant provisions of the Statute, the Rules of Procedure and Evidence and the Agreement on the



Privileges and Immunities of the Court and should be consistent with those instruments;

(c) The headquarters agreement should reflect the specific relationship between the Court and the host country;

(d) The headquarters agreement should address in detail those issues which are not covered or are not sufficiently dealt with in the Statute, the Rules of Procedure and Evidence and the Agreement on the Privileges and Immunities of the Court, but are necessary for the proper implementation of the provisions set forth in those instruments;

(e) The headquarters agreement should be prepared in the light of its primary purpose of enabling the Court to fully and efficiently discharge its responsibilities and fulfil its purposes in the host country;

(f) The headquarters agreement should support the independence of the Court and provide for the long-term stability of the Court;

(g) The headquarters agreement should facilitate the smooth and efficient functioning of the Court, including, in particular, its needs with regard to all persons required by the Court to be present at its seat and with regard to the transfer of evidence in and out of the host country;

(h) The headquarters agreement should attempt, to the extent possible, to resolve in an all-encompassing manner all issues required to facilitate the smooth and efficient functioning of the Court; at the same time it should provide sufficient flexibility to allow for the conclusion of supplementary agreements on matters that were not foreseen during the negotiations of the agreement or are needed for the proper implementation thereof;

(i) The headquarters agreement should capitalize upon the relevant experience of international organizations and tribunals, and in particular with regard to operational issues, the experience of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda;

(j) The headquarters agreement should ensure that the Court shall enjoy privileges, immunities and treatment that are no less favourable than those accorded to any international organization or tribunal located in the host country;

(k) The headquarters agreement should specify that the host country remains responsible for the fulfilment of all obligations under the headquarters agreement regardless of by whom those obligations are performed;

(l) The headquarters agreement should provide for its provisional application following the conclusion of negotiations between the Court and the Government of the Netherlands and pending the approval of the agreement by the Assembly of States Parties and the completion by the host country of its internal legislative procedures.

II. Specific principles governing the headquarters agreement

2. Part II contains principles on specific issues that need to be addressed in the headquarters agreement. The headquarters agreement may, however, deviate from the organizational structure used in this part.

Preamble

3. The preamble should refer, inter alia, to article 3, paragraphs 1 and 2, article 4, paragraph 1, and article 48 of the Statute. It should also highlight the main purpose of the agreement.

Use of terms

4. The article on the use of terms should include definitions, inter alia, of "the Statute", "the Court", "Rules of Procedure and Evidence", "Agreement on the Privileges and Immunities of the Court", "the premises of the Court", "the host country", "the competent authorities", "judges", "President", "the Presidency", "Prosecutor", "Deputy Prosecutors", "Registrar", "Deputy Registrar", "officials of the Court", "victim", "counsel", "States Parties", "Assembly", "representatives of States Parties" and "Vienna Convention".

5. Those definitions should be consistent with the Statute, the Rules of Procedure and Evidence and the Agreement on the Privileges and Immunities of the Court.

Legal status and juridical personality of the Court

6. Under this principle the headquarters agreement should refer to article 4, paragraph 1, of the Statute, which provides that the Court has international legal personality and also has such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Premises of the Court

7. Under this principle, the headquarters agreement should refer to article 3, paragraph 1, of the Statute, which provides that the seat of the Court shall be established at The Hague in the Netherlands.

8. The headquarters agreement should contain provisions on inviolability of the premises of the Court providing, in particular, that:

(a) No official of the host country shall be allowed to enter the premises of the Court to perform any official duties unless permission has been given by the competent authorities of the Court;

(b) Judicial actions shall not be enforced on the premises of the Court;

(c) In case of fire or other emergency requiring prompt protective action, the consent of the Court to any necessary entry into premises by the competent authorities of the host country shall be presumed;

(d) The premises of the Court shall not become a refuge from justice.

9. The headquarters agreement should contain provisions on law and authority on the premises of the Court providing, in particular, that:

(a) The premises of the Court shall be under the control and authority of the Court;

(b) The Court shall have the power to make regulations operative within the premises and may expel or exclude persons from the premises for violation of its regulations;

(c) Except as otherwise provided in the headquarters agreement, the laws and regulations of the host country shall apply on the premises of the Court.

10. The headquarters agreement should contain provisions on protection of the premises of the Court providing, in particular, that the Government of the host country shall take all the effective and adequate measures necessary to ensure the security, safety and protection of the Court, its property, premises and the immediate vicinity of the Court and shall take the necessary measures to prevent impairment of the dignity and proper functioning of the Court.

11. The competent authorities of the host country shall ensure that the Court is not deprived of any part of its premises without its consent.

12. The competent authorities of the host country shall provide, if so requested by the Court, adequate police or security forces necessary to preserve law and order on the premises.

Privileges and immunities of the Court

13. Under this principle, the headquarters agreement should refer to article 48, paragraph 1, of the Statute, which contains the general principle governing the privileges and immunities enjoyed by the Court and provides that the Court shall enjoy in the territory of the host country such privileges and immunities as are necessary for the fulfilment of its purposes.

14. In addition, the headquarters agreement should include specific provisions providing that:

(a) The Court shall be entitled to display its flag, emblem and markings at its premises and on vehicles and other means of transportation used for official purposes;

(b) The Court and its property, funds and assets, wherever located and by whomsoever held, shall be immune from every form of legal process except insofar as in any particular case the Court has expressly waived its immunity (it being understood that no waiver of immunity shall extend to any measure of execution) and from search, seizure, requisition, confiscation, expropriation and any other form of interference by an executive, administrative, judicial or legislative body and shall be exempt from restrictions, regulations, controls or moratoria of any nature;

(c) The archives of the Court and in general all papers and documents in whatever form and other materials belonging to the Court wherever located and by

whomsoever held shall be inviolable. The headquarters agreement shall provide for the application of any protective measures that the Court may order.

15. Furthermore, under this principle, the headquarters agreement should include the following specific provisions providing that:

(a) The Court's income, assets and other property and its operations and transactions shall be exempt from all direct taxes and the Court shall be exempt from all customs duties, import turnover taxes and prohibitions and restrictions on imports and exports and in respect of its publications;

(b) The Court shall be exempt from taxes on, at a minimum, major purchases, for official use, of property, goods or services;

(c) The Court may receive, hold, use, transfer and convert funds, gold, securities or currency of any kind and shall in general enjoy freedom from any form of currency restrictions.

Communication facilities

16. Under this principle, the headquarters agreement should provide, in particular, that:

(a) The Court shall enjoy, for any form of its official communications and correspondence, treatment not less favourable than that accorded by the host country to any intergovernmental organization or diplomatic mission and no such official communication or correspondence shall be subject to censorship by the Government of the host country;

(b) The Court shall be entitled to use codes and cipher and to dispatch and receive correspondence and other material or communications either by courier or in sealed bags, all of which shall be inviolable and shall have the same privileges and immunities as diplomatic couriers and bags;

(c) The Court may use all appropriate means of communication and shall have the right to establish and operate at the premises of the Court its own sending and receiving broadcasting facilities and other telecommunications equipment, in accordance with the laws and regulations of the host country. The Court shall be exempt from the licensing restrictions and permit regime and any fees associated thereto;

(d) The Court shall have the right to publish freely and without restrictions within the host country in conformity with the headquarters agreement.

Public services for the premises of the Court

17. Under this principle, the headquarters agreement should include provisions providing, in particular, that:

(a) The competent authorities shall secure, upon the request of the Registrar or a duly authorized official acting on his/her behalf, the provision on equitable terms of public services needed by the Court and that, in cases where such services are made available to the Court by the competent authorities, or where the prices thereof are under their control, the rates for such services shall not exceed the lowest

comparable rates accorded to essential agencies and organs of the Government, and in case of force majeure resulting in a complete or partial disruption of the aforementioned services, the Court shall for the performance of its functions be accorded the priority given to essential agencies and organs of the Government;

(b) Upon request of the competent authorities, the Court shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises of the Court under conditions that shall not unreasonably disturb the carrying out of the functions of the Court.

Privileges and immunities of judges, the Prosecutor, the Deputy Prosecutors, the Registrar and officials of the Court

18. Under this principle, the headquarters agreement should refer to article 48, paragraph 2, of the Statute, containing general provisions on the privileges and immunities enjoyed by the judges, the Prosecutor, the Deputy Prosecutors and the Registrar, and to article 48, paragraph 5, concerning waiver of such privileges and immunities.

19. The headquarters agreement's provisions concerning the privileges and immunities enjoyed by the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and officials of the Court should be consistent with those contained in the Agreement on the Privileges and Immunities of the Court and should reflect the specific relationship between the Court and the host country.

20. The headquarters agreement should specify, in particular, that the immunity from legal process in respect of words spoken or written and acts done by the judges, the Prosecutor, the Deputy Prosecutors and the Registrar in discharging their functions shall continue to be accorded notwithstanding that the persons concerned are no longer occupying these positions or performing those functions; the salaries, emoluments and allowances paid to the judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall be exempt from taxation; members of families of the judges, the Prosecutor, the Deputy Prosecutors and the Registrar forming part of their households and who do not have Netherlands nationality or permanent residence status in the host country shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic agents.

21. Under this principle, the headquarters agreement should also refer to article 48, paragraph 3, of the Statute of the Court and ensure that the Deputy Registrar, the staff of the Office of the Prosecutor and the staff of the Registry (hereinafter officials of the Court) shall enjoy in the host country the privileges and immunities and facilities necessary for the independent performance of their functions. The headquarters agreement should define which categories of staff and members of their family forming part of their household shall be accorded the privileges and immunities, exemptions and facilities as the Government of the host country accords to diplomatic agents of comparable rank within diplomatic missions established in the Netherlands.

22. Spouses and members of families of the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and officials of the Court forming part of their household shall be entitled to seek employment in the Netherlands. The conditions for such

employment shall be agreed upon between the Court and the competent authorities of the host country.

23. In the event that the Court establishes its own social security regime, all persons to whom such a regime may apply shall be exempt from all compulsory contributions to the social security system of the Netherlands.

24. The headquarters agreement should include a provision for the avoidance of double contributions by persons to whom a social security scheme established by the Court may apply, pending the establishment of such a scheme.

25. The headquarters agreement should further provide that the judges, the Prosecutor, the Deputy Prosecutors and the Registrar and officials of the Court shall have the right of unimpeded entry into, exit from and movement within the host country, including unimpeded access to the premises of the Court, as appropriate and for the purposes of the Court.

Privileges and immunities of persons taking part in proceedings before the Court

26. The headquarters agreement should ensure that all persons taking part in proceedings before the Court enjoy privileges, immunities and facilities to the extent necessary for the independent performance of their functions or for their presence before the Court. These persons comprise: representatives of States participating in the proceedings of the Court, counsel and persons assisting defence counsel, witnesses, victims, experts and other persons who are required to be present at the seat of the Court.

27. The privileges, immunities and facilities to be accorded by the headquarters agreement to the persons referred to in paragraph 26 should be consistent with those contained in the Agreement on the Privileges and Immunities of the Court and should reflect the special relationship between the Court and the host country.

28. The headquarters agreement should, in particular, provide that persons referred to in paragraph 26:

(a) Shall be accorded privileges, immunities and facilities to the extent necessary for the independent performance of their functions or for their presence before the Court under the Statute and the Rules of Procedure and Evidence;

(b) Shall be accorded immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of the performance of their functions;

(c) Shall not be subjected by the host country to any measures that may affect the privileges, immunities and facilities referred to in subparagraph (a);

(d) Shall have the right of unimpeded entry into, exit from and movement within the host country, including unimpeded access to the premises of the Court, as appropriate and for the purposes of the Court;

(e) Shall not be prosecuted or detained or subjected to any other restriction of their liberty by the competent authorities in respect of acts or convictions prior to entry into the territory of the host country;

(f) Shall, with the exception of representatives of States participating in or attending the proceedings, be provided by the Court with a certificate indicating their status, which shall be limited to a period required for the exercise of their functions or of the proceedings in question.

29. The headquarters agreement should provide that the host country shall not exercise its jurisdiction or proceed with a request for assistance or extradition from another State in respect of persons surrendered to the Court in accordance with Part 9 of the Statute or persons who appear before the Court pursuant to a summons to appear in accordance with article 58, paragraph 7, of the Statute, or in respect of persons temporarily transferred to the Court in accordance with article 93, paragraph 7, of the Statute or rule 193 of the Rules of Procedure and Evidence, for any acts, omissions or convictions prior to the surrender, the transfer or the appearance before the Court except as provided for in the Statute and the Rules of Procedure and Evidence.

30. The headquarters agreement should provide that the immunity provided for in paragraph 29 shall cease to have effect when the person, having been acquitted or otherwise released by the Court and having had for a reasonable period specified in the headquarters agreement after the date of his/her release an effective opportunity of leaving, has nevertheless remained in the territory of the host country or, having left it, has returned voluntarily.

Visas

31. The headquarters agreement should provide that the applications for entry and exit visas for persons taking part in proceedings before the Court are dealt with as speedily as possible and granted free of charge. It should also provide that the host Government shall make adequate arrangements by which entry and exit visas for family of detained persons are processed speedily and, where appropriate, free of charge or for a reduced fee.

Cooperation between the Court and the host country

32. Under this principle the headquarters agreement should provide that the Court and the host country are under the obligation to cooperate with each other regarding the implementation of the agreement.

33. The headquarters agreement should further provide that the Court shall cooperate at all times with the competent authorities of the host country to facilitate, to the extent possible, the proper administration of justice, secure the observance of police regulations and prevent any abuse in connection with the privileges, immunities and facilities accorded under the present agreement and that it is the duty of all persons enjoying privileges, immunities and facilities under the headquarters agreement to respect the laws and regulations of the host country.

34. The headquarters agreement should provide that the competent authorities of the host country shall take effective and adequate action to ensure the appropriate security, safety and protection of persons referred to in the agreement, which is indispensable for the proper functioning of the Court, free from interference of any kind.

35. The headquarters agreement should also include general procedural provisions concerning cooperation in operational matters such as transit, pre-trial detention and the enforcement of sentences under article 103, paragraph 4, of the Statute.

36. The headquarters agreement should provide appropriate ways and means by which the Court shall notify the competent authorities of the host country of the names and categories of persons to which the agreement shall apply.

Amendments

37. Under this principle, the headquarters agreement should include a provision providing that the agreement may be amended by mutual consent of the parties.

Settlement of disputes

38. Under this principle, the headquarters agreement should provide that the Court, without prejudice to the powers and responsibilities of the Assembly under the Statute, shall make suitable provisions for the settlement of:

(a) Disputes arising out of contracts and other disputes of a private law character to which the Court is a party;

(b) Disputes involving any person referred to in the headquarters agreement who, by reason of his or her official position or function in connection with the Court, enjoys immunity, if such immunity has not been waived.

39. With reference to disputes that may arise between the Court and the Government of the host country concerning the interpretation or application of the headquarters agreement or of any supplementary agreement that cannot be settled amicably, the agreement should provide that they should be referred, at the request of either party to the dispute, to an arbitral tribunal and should include provisions regarding the composition and functioning of such a tribunal.

Applicability of the headquarters agreement

40. The headquarters agreement should be without prejudice to relevant rules of international law, including international humanitarian law.

26 April 2002

Original: English

New York
8-19 April 2002

Report of the Preparatory Commission for the International Criminal Court (continued)

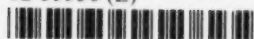
Addendum

Part II Draft Financial Rules

Regulation 1* Applicability

- 1.1 These Regulations shall govern the financial administration of the International Criminal Court.
- 1.2 For the purposes of these Regulations:
 - (a) "Assembly of States Parties" means the Assembly of States Parties to the Rome Statute of the International Criminal Court, adopted at Rome on 17 July 1998;
 - (b) "Committee on Budget and Finance" means the Committee established as such by the Assembly of States Parties;
 - (c) "Court" means the International Criminal Court;
 - (d) "Presidency" means the Presidency of the International Criminal Court;
 - (e) "Registrar" means the Registrar of the International Criminal Court;
 - (f) "Rome Statute" means the Rome Statute of the International Criminal Court, adopted at Rome on 17 July 1998.
- 1.3 The Assembly of States Parties shall establish detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy.

* The Regulations are reprinted here for easy reference only.



- 1.4 These Regulations shall be implemented in a manner consistent with the responsibilities of the Prosecutor and of the Registrar as set out in articles 42, paragraph 2, and 43, paragraph 1, of the Rome Statute. The Prosecutor and the Registrar shall cooperate, taking into account the independent exercise by the Prosecutor of his or her functions under the Statute.

Applicability, authority and responsibility

Rule 101.1

Applicability and authority

- (a) These Rules are in complement to, and limited by the Financial Regulations. They shall govern all the financial administration of the Court, except as may otherwise explicitly be provided by the Assembly of States Parties, or specifically exempted therefrom by the Registrar.
- (b) In his/her capacity as principal administrative officer of the Court, the Registrar shall be responsible and accountable for ensuring that these Rules are administered in a coherent manner by all organs of the Court, including through appropriate institutional arrangements with the Office of the Prosecutor with regard to management and administrative functions falling under the authority of that Office by virtue of article 42, paragraph 2, of the Rome Statute.
- (c) In the application of the Financial Regulations and Rules, officials shall be guided by the principles of effective financial administration and the exercise of economy.
- (d) To ensure the application of these principles, the Registrar, or respectively the Prosecutor in areas falling under his/her authority by virtue of article 42, paragraph 2, of the Rome Statute, may issue such instructions or establish such procedures as he/she may deem necessary for the administration of these Rules. He/she may delegate, by administrative instruction, authority for specific aspects of the Financial Regulations and Rules. These administrative instructions will state whether the delegated official may, in turn, assign aspects of this authority to other officials.

Rule 101.2

Responsibility

All Court staff have the responsibility to comply, in the course of their official duties, with the Financial Regulations and Rules, and with administrative instructions which may be issued in connection therewith. Any staff member contravening the Financial Regulations and Rules or any instructions issued in connection therewith may be held personally accountable and financially liable for the consequences of such contraventions.

Regulation 2

The financial period

- 2.1 The financial period shall consist initially of one calendar year unless otherwise decided by the Assembly of States Parties for the first-year budget of the Court. The Assembly of States Parties shall keep under review the financial period.

Regulation 3

Programme budget

- 3.1 The proposed programme budget for each financial period shall be prepared by the Registrar in consultation with the other organs of the Court referred to in article 34, subparagraphs (a) and (c), of the Rome Statute. The proposed programme budget shall be divided into parts, sections and, as appropriate, programme support, in accordance with the relevant articles of the Statute. The proposed programme budget shall include funding for the expenses of the Assembly of States Parties, including its Bureau and subsidiary bodies.
- 3.2 The proposed programme budget shall cover income and expenditures for the financial period to which they relate and shall be presented in the currency of the statutory headquarters of the Court.

Presentation, content and methodology

Rule 103.1

Form of proposed programme budget

The proposed programme budget, both for income and expenditures, shall be prepared in such form as the Assembly of States Parties may prescribe.

Rule 103.2

Preparation of proposed programme budget

1. The Registrar shall ask the Office of the Prosecutor and relevant Heads of organizational units of other organs of the Court to prepare programme budget proposals for the following financial period at such times and in such detail as the Registrar may prescribe, in accordance with the Financial Regulations and Rules, any prescriptions that the Assembly of States Parties or the Committee on Budget and Finance may make, as well as any further regulations, rules and instructions.
2. On the basis of these proposals, the Registrar shall elaborate a consolidated draft programme budget that he/she will submit to the Committee on Budget and Finance.
- 3.3 The budget narrative shall set out, wherever possible, concrete objectives, expected results and key performance indicators for the financial period. It shall be accompanied by such information, annexes and explanatory statements as may be requested by or on behalf of the Assembly of States Parties, including a statement on the main changes in comparison with the budget of

the previous financial period and such further annexes or statements as the Registrar may deem necessary and useful. The Registrar shall monitor the achievement of objectives and service delivery during the financial period and report in the context of the next proposed budget on actual performance attained.

Rule 103.3

Content of the proposed programme budget

The proposed programme budget shall contain:

- (a) The financial framework of the Court, followed by**
 - (i) A detailed statement of resources by part, section and, where applicable, programme support. For purposes of comparison, the expenditures for the previous financial period and the revised appropriations for the current financial period shall be indicated alongside the resource estimates for the forthcoming financial period;**
 - (ii) A statement of estimated income, including income classified as miscellaneous in accordance with regulation 7.1;**
- (b) The budget proposals, with detailed budget narratives as set out in regulation 3.3;**
- (c) Relevant tables and figures on budget estimates and posts.**

3.4 The Registrar shall submit the proposed programme budget for the following financial period to the Committee on Budget and Finance at least 45 days prior to the meeting at which the Committee shall consider the proposed programme budget. At the same time, the Registrar shall also submit the proposed programme budget to the States Parties.

3.5 The Committee on Budget and Finance shall consider the proposed programme budget and shall submit its comments and recommendations to the Assembly of States Parties. The Assembly shall consider the proposed programme budget and take a decision on it.

Rule 103.4

Publication of the adopted programme budget

The Registrar shall arrange for the publication of the programme budget as adopted by the Assembly of States Parties.

3.6 Supplementary budget proposals may be submitted by the Registrar with respect to the current financial period if circumstances unforeseen at the time of adopting the budget make it necessary. In this case, the supplementary budget proposal shall be in a form consistent with the approved budget. The provisions of these Regulations shall be applicable to the proposed supplementary budget. Decisions of the Assembly of States Parties on the supplementary budget proposed by the Registrar shall be based on the recommendations of the Committee on Budget and Finance.

3.7 The Registrar may enter into commitments for future financial periods, provided that such commitments are for activities which have been approved

by the Assembly of States Parties and are expected to occur or continue beyond the end of the current financial period.

Rule 103.5

Maintenance of record of commitments for future financial periods

The Registrar shall maintain a record in the accounts of all commitments for future financial periods (rule 111.7), which shall constitute the first charges against relevant appropriations once these are approved by the Assembly of States Parties.

Regulation 4 Appropriations

- 4.1 The appropriations adopted by the Assembly of States Parties shall constitute an authorization for the Registrar to incur obligations and make payments for the purposes of which the appropriations were adopted and up to the amounts adopted.
- 4.2 There shall be adopted an appropriation line, divided into two or more instalments, in each proposed programme budget to cover expenditures if they:
- (a) Result from activities of the Court required by the Rome Statute or the Rules of Procedure and Evidence;
 - (b) Were unforeseeable at the time of adoption of the proposed programme budget;
 - (c) Cannot be met by transfers between appropriation sections in accordance with regulation 4.8; and
 - (d) Are of such an urgent nature that the Assembly of States Parties cannot be convened to approve the appropriations in accordance with regulation 3.6.

The appropriation line shall be funded in accordance with regulation 5.3.

- 4.3 The appropriation line adopted by the Assembly of States Parties in accordance with regulation 4.2 shall constitute an authorization for the Registrar, at his or her own decision or at the request of the Prosecutor or of the Presidency, as the case may be, with the prior concurrence of the Committee on Budget and Finance, to incur obligations and make payments for the purposes for which the appropriation line was adopted and up to the amount provided in the first instalment of the appropriation line. The Registrar may incur obligations and make payments up to the amount provided in each instalment of the appropriation line only after all the previous instalments have been obligated or disbursed. The Registrar shall report to the Committee on Budget and Finance any payment effected or obligation incurred under regulation 4.2.
- 4.4 Appropriations shall be available for obligation during the financial period to which they relate.

- 4.5 Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to liquidate any outstanding legal obligations of the financial period. The balance of the appropriations remaining unobligated at the close of the financial period, after deducting therefrom any contributions from States Parties relating to that financial year which remain unpaid, shall form part of any cash surplus of the budget and shall be treated in accordance with regulation 4.7.
- 4.6 At the end of the twelve-month period provided in regulation 4.5 the then remaining unspent balance of appropriations retained after deducting therefrom any contributions from States Parties relating to the financial period of the appropriations which remain unpaid shall be treated as a cash surplus as in regulation 4.5. Any obligations remaining a valid claim at that time shall be charged against current appropriations.

The provisional cash surplus for the financial period shall be determined by establishing the balance between credits (assessed contributions actually received for the financial period and miscellaneous income received during the financial period) and charges (all disbursements against the appropriations for that financial period and provisions for unliquidated obligations for that financial period).

The cash surplus for the financial period shall be determined by crediting to the provisional cash surplus any arrears of prior periods' assessed contributions from States Parties received during this period and any savings from the provisions made for unliquidated obligations as mentioned above. Any remaining outstanding obligations shall be re-obligated against the appropriations of the current financial period.

- 4.7 Any cash surplus in the budget at the close of any financial period shall be apportioned among States Parties in proportion to the scale of assessments applicable to the financial period to which the surplus relates. As of 1 January following the year in which the audit of the accounts of the financial period is completed, the amount so apportioned to a State Party shall be surrendered to such State Party if its contribution for that financial period has been paid in full and shall be applied to liquidate, in whole or in part, first, any advance due to the Working Capital Fund; secondly, any arrears of assessed contributions; and thirdly, assessed contributions for the calendar year following the year in which the audit is completed.

While any cash surplus in the budget shall be apportioned among all States Parties, the amount so apportioned shall be surrendered only to those States Parties which have paid in full their contributions for that financial period. Amounts apportioned but not surrendered shall be retained by the Registrar until such time as the contribution for the relevant financial period is paid in full, at which time they shall be applied as set forth above.

- 4.8 No transfer between appropriation sections may be made without authorization by the Assembly of States Parties, unless such a transfer is made necessary by exceptional circumstances, and is in accordance with criteria to be agreed upon by the Assembly of States Parties.
- 4.9 The officials heading the organs referred to in article 34, subparagraphs (c) and (d), of the Rome Statute shall be accountable to the Assembly of States Parties

for the proper management and administration of the financial resources for which they are responsible, as set out in articles 42, paragraph 2, and 43, paragraph 1, of the Rome Statute. They shall prudently manage the appropriations so as to ensure that expenditures can be met from funds available, keeping in view the actual contributions received and the availability of cash balances.

Administration of appropriations

Rule 104.1

Authorization to expend appropriations

Authorization by the Registrar to expend budget appropriations may take the form of:

- (a) An allotment of funds or other authorization to commit funds for a specific period and/or a specific purpose; and/or
- (b) An authorization for the employment of staff or of consultants.

Rule 104.2

Allotment advice

The Registrar shall issue at least annually a detailed allotment advice to each organ of the Court for the objects of expenditure for which it is responsible.

Rule 104.3

Redeployment between organizational units

The Registrar, or respectively the Prosecutor in areas falling under the authority of his Office by virtue of article 42, paragraph 2, of the Rome Statute, may redeploy resources among organizational units and objects of expenditure, provided such redeployments are within the total appropriations approved by the Assembly of States Parties for an appropriation section.

Regulation 5

Provision of funds

5.1 The funds of the Court shall include:

- (a) Assessed contributions made by States Parties in accordance with article 115, subparagraph (a), of the Rome Statute;
- (b) Funds provided by the United Nations in accordance with article 115, subparagraph (b), of the Rome Statute;
- (c) Voluntary contributions by Governments, international organizations, individuals, corporations and other entities, in accordance with article 116 of the Rome Statute;
- (d) Such other funds to which the Court may become entitled or may receive.

5.2 The appropriations, subject to the adjustments effected in accordance with the provisions of regulation 5.4, shall be financed by contributions from States

Parties in accordance with an agreed scale of assessment, as provided for in article 117 of the Rome Statute. This scale shall be based on the scale adopted by the United Nations for its regular budget, and adjusted in accordance with the principles on which that scale is based, in order to take into account the differences in membership between the United Nations and the Court. The scale shall be adopted by the Assembly of States Parties. Pending the receipt of such contributions, the appropriations may be financed from the Working Capital Fund.

- 5.3 The appropriations provided for in regulation 4.2 shall be financed from the assessed contributions from States Parties in accordance with regulation 5.2 up to a limit to be decided upon by the Assembly of States Parties in each budget resolution. Pending the receipt of such contributions, the appropriations may be financed from the Working Capital Fund.
- 5.4 The contributions of States Parties shall be assessed for a financial period on the basis of the appropriations approved by the Assembly of States Parties for that financial period. Adjustments to the assessments of States Parties shall be made in respect of:
 - (a) Any balance of the appropriations surrendered under regulation 4.7;
 - (b) Contributions resulting from the assessment of new States Parties under the provisions of regulation 5.10;
 - (c) Miscellaneous income.
- 5.5 After the Assembly of States Parties has reviewed and adopted the budget and determined the amount of the Working Capital Fund, the Registrar shall:
 - (a) Transmit the relevant documents to the States Parties;
 - (b) Inform the States Parties of their commitments in respect of annual assessed contributions and advances to the Working Capital Fund;
 - (c) Request them to remit their contributions and advances.

Rule 105.1

Time frame for application of regulation 5.5

The Registrar shall comply with regulation 5.5 within thirty days of the decision by the Assembly of States Parties approving the budget and the level of the Working Capital Fund.

- 5.6 Assessed contributions and advances shall be considered as due and payable in full within thirty days of the receipt of the communication of the Registrar referred to in regulation 5.5 or as of the first day of the calendar year to which they relate, whichever is the later. As of 1 January of the following calendar year, the unpaid balance of such contributions and advances shall be considered to be one year in arrears.

- 5.7 Contributions and advances to the Working Capital Fund shall be assessed and paid in the currency of the statutory headquarters of the Court. The contributions and advances to the Working Capital Fund may also be paid in any other currency that is freely convertible into the currency of the statutory headquarters of the Court. Any currency exchange cost will be borne by the State Party which decided to pay in a currency other than the currency of the statutory headquarters of the Court.

Rule 105.2**Applicable rate of exchange for contributions**

The equivalent in euros of contributions paid in other currencies is calculated at the most favourable rate of exchange available to the Court on the date of payment.

- 5.8 Payments made by a State Party shall be credited first to the Working Capital Fund and then to the contributions due, in the order in which the State Party was assessed.
- 5.9 The Registrar shall submit to each meeting of the Assembly of States Parties a report on the collection of contributions and advances to the Working Capital Fund.
- 5.10 New States Parties shall be required to make contributions for the year in which they become States Parties and to provide their proportion of the total advances to the Working Capital Fund at rates to be determined by the Assembly of States Parties.

Regulation 6
Funds

- 6.1 There shall be established a General Fund for the purpose of accounting for the expenditures of the Court. The contributions referred to in regulation 5.1 by States Parties and miscellaneous income and any advances made from the Working Capital Fund to finance expenditures shall be credited to the General Fund.
- 6.2 There shall be established a Working Capital Fund to ensure capital for the Court to meet short-term liquidity problems pending receipt of assessed contributions. The amount shall be determined from time to time by the Assembly of States Parties. The Working Capital Fund shall be constituted by advances from States Parties. Advances shall be made in accordance with the agreed scale of assessment pursuant to regulation 5.2. Advances shall be carried to the credit of States Parties which have made such advances.
- 6.3 Advances made from the Working Capital Fund to finance budgetary appropriations shall be reimbursed to the Fund as soon as and to the extent that income is available for that purpose.
- 6.4 Income derived from investments of the Working Capital Fund shall be credited to miscellaneous income.

- 6.5 Trust funds and special accounts funded wholly by voluntary contributions may be established and closed by the Registrar and shall be reported to the Presidency and, through the Committee on Budget and Finance, to the Assembly of States Parties.

Reserve accounts and special accounts funded wholly or in part by assessed contributions may be established by the Assembly of States Parties.

The purposes and limits of each trust fund, reserve and special account shall be clearly defined by the appropriate authority. Unless otherwise decided by the Assembly of States Parties, such funds and accounts shall be administered in accordance with these Regulations.

Rule 106.1

Unexpended voluntary contributions

Voluntary contributions to trust funds, reserve and special accounts remaining unexpended after the related activities of the Court are financially completed shall be disposed of by the Court in accordance with the agreement under which the contribution was made.

Regulation 7

Other income

- 7.1 All other income except:

- (a) Assessed contributions made by States Parties to the budget;
 - (b) Funds provided by the United Nations in accordance with article 115, subparagraph (b), of the Rome Statute;
 - (c) Voluntary contributions in accordance with article 116 of the Rome Statute and regulation 7.3, made by States Parties, other States, international organizations, individuals, corporations and other entities;
 - (d) Direct refunds of expenditures made during the financial period,
- shall be classed as miscellaneous income, for credit to the General Fund.

Rule 107.1

Reimbursement of expenditures

- (a) Within the same financial period, reimbursements of actual expenditures incurred may be credited to the accounts against which they were originally charged; reimbursements of actual expenditures incurred in prior financial periods shall be credited as miscellaneous income.
- (b) Adjustments which arise subsequent to the closing of an extrabudgetary account (e.g. a trust fund, reserve or special account) shall be debited or credited against miscellaneous income in that selfsame account.

Rule 107.2**Receipt and deposit of contributions and other income**

- (a) An official receipt shall be issued as soon as practicable for all cash and negotiable instruments received.
 - (b) Only officials designated by the Registrar shall be authorized to issue official receipts (see also regulation 10.1 (b)). If other officials receive money intended for the Court, they must immediately convey this money to an official authorized to issue an official receipt.
 - (c) All moneys received shall be deposited in an official bank account as soon as practicable.
- 7.2 Voluntary contributions, gifts and donations, whether or not in cash, may only be accepted by the Registrar, provided that they are consistent with the nature and functions of the Court and the criteria to be adopted by the Assembly of States Parties on the subject, in accordance with article 116 of the Rome Statute. Acceptance of contributions which directly or indirectly involve additional financial liability for the Court shall require the prior consent of the Assembly of States Parties.
- 7.3 Voluntary contributions accepted for purposes specified by the donors shall be treated as trust funds or special accounts.
- 7.4 Voluntary contributions in respect of which no purpose is specified shall be treated as miscellaneous income and reported as "gifts" in the accounts of the financial period.

Regulation 8

Custody of funds

- 8.1 The Registrar shall designate the bank or banks in which the funds of the Court shall be kept.

Banking**Rule 108.1****Bank accounts, authority and policy**

The Registrar shall designate the banks in which the funds of the Court shall be kept, shall establish all official bank accounts required for the transaction of the Court's business and shall designate those officials to whom signatory authority is delegated for these accounts. The Registrar shall also authorize all bank account closures. Bank accounts of the Court are to be opened and operated in accordance with the following guidelines:

- (a) Bank accounts shall be designated "official accounts of the International Criminal Court" and the relevant authority shall be notified that these accounts are exempt from all taxation and that the immunities set out in article 6 of the Agreement on the Privileges and Immunities of the Court apply to these accounts;

- (b) Banks shall be required to provide monthly statements;
- (c) Two signatures, or their electronic equivalent, shall be required on all cheques and other withdrawal instructions including electronic modes of payment;
- (d) All banks shall be required to recognize that the Registrar is authorized to receive, upon request, or as promptly as is practicable, all information pertaining to official bank accounts of the Court.

Rule 108.2

Bank signatories

Bank signatory authority and responsibility is assigned on a personal basis and cannot be delegated. Bank signatories cannot exercise the approving functions assigned in accordance with rule 110.5. Designated bank signatories must:

- (a) Ensure that there are sufficient funds in the bank account when cheques and other payment instructions are presented for payment;
- (b) Verify that all cheques and other payment instructions are pre-encumbered, dated and drawn to the order of the named payee approved by an Approving Officer (designated in accordance with rule 110.5), as indicated in the accompanying disbursement voucher, payment instructions and original invoice;
- (c) Ensure that cheques and other banking instruments are properly safeguarded and that when they are obsolete they are destroyed in the presence of an internal auditor.

Rule 108.3

Exchange of currencies

Officials responsible for the operation of the Court's bank accounts or for holding the Court's cash or negotiable instruments are not authorized to exchange one currency for another, except to the minimum extent essential for the transaction of official business.

Rule 108.4

Cash advances

- (a) Petty cash advances may only be made by, and to officials designated for this purpose by, the Registrar.
- (b) The relevant accounts shall be maintained on an imprest system and the amount and purposes of each advance shall be defined by the Registrar.
- (c) The Registrar may make other cash advances as may be permitted by the Staff Regulations and Rules, administrative instructions and as may otherwise be approved by him or her.
- (d) Officials to whom cash advances are issued shall be held personally responsible and financially liable for the proper management and safekeeping of cash so advanced and must be in a position to account for the advances at all times. They shall submit monthly accounts, unless otherwise directed by the Registrar.

Rule 108.5**Disbursements/payments**

- (a) All disbursements shall be made by cheque, by wire transfer or by electronic funds transfer except to the extent that cash disbursements are authorized by the Registrar.
- (b) Disbursements shall be recorded in the accounts as of the date when they are made, that is, when the cheque is issued, transfer is effected or cash is paid out.
- (c) Except where a paid cheque is returned by the bank or a debit advice is received from the bank, a payee's written receipt shall be obtained for all disbursements.

Rule 108.6**Advance and progress payments**

- (a) Except where normal commercial practice or the interest of the Court so requires, no contract or other form of undertaking shall be made on behalf of the Court which requires a payment or payments on account in advance of the delivery of products or the performance of contractual services. Whenever an advance payment is agreed to, the reasons therefor shall be recorded.
- (b) In addition to the above, and notwithstanding regulation 3.7, the Registrar may, where necessary, authorize progress payments.

Rule 108.7**Reconciliation of bank accounts**

Every month, unless an exception is authorized by the Registrar, all financial transactions, including bank charges and commissions, must be reconciled with the information submitted by banks in accordance with rule 108.1. This reconciliation must be performed by officials having no actual part in the receipt or disbursement of funds; if the staff situation at the Court or at an office away from the seat of the Court makes this impracticable, alternative arrangements may be established in consultation with the Registrar.

Regulation 9**Investment of funds**

- 9.1 The Registrar may make short-term investments of moneys not needed for immediate requirements and shall periodically inform the Presidency and, through the Committee on Budget and Finance, the Assembly of States Parties of such investments.

Rule 109.1**Policy**

- (a) Short-term investments are investments made for less than 12 months.

- (b) The Registrar shall ensure, including by establishing appropriate guidelines and by selecting reputable financial institutions that offer sufficient safeguards against any investment losses, that funds are invested in such a way as to place primary emphasis on excluding the risk to principal funds while ensuring the liquidity necessary to meet the Court's cash-flow requirements. In addition to, and without detracting from, these primary criteria, investments shall be selected on the basis of achieving the highest reasonable rate of return and shall accord, to the fullest extent possible, with the independence and impartiality of the Court and with the purposes and principles of the Charter of the United Nations.

Rule 109.2

Investment ledger

Investments shall be recorded in an investment ledger, which shall show all the relevant details for each investment, including, for example, face value, cost of the investment, date of maturity, place of deposit, market value of the investment from time to time as reflected in the account statements provided by the relevant financial institution, proceeds of sale and income earned. A record of all account statements received from financial institutions relating to any investment shall be maintained.

Rule 109.3

Custody of investments

- (a) All investments shall be made through, and maintained by, reputable financial institutions designated by the Registrar (see also rule 109.1 (b)).
 - (b) All investment transactions, including the withdrawal of invested resources, require the authorization and signature of two officials designated for that purpose by the Registrar.
- 9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each trust fund or special account.

Rule 109.4

Income from investments

- (a) Income derived from General Fund investments shall be credited to miscellaneous income.
- (b) Income derived from Working Capital Fund investments shall be credited to miscellaneous income, as provided for in regulation 6.4.
- (c) Income derived from investments pertaining to trust funds, reserve and special accounts shall be credited to the trust fund, reserve or special account concerned.
- (d) Gains from investments must be recorded by the Registrar and reported to the Auditor.

Rule 109.5**Losses**

- (a) Any investment losses must be recorded at once by the Registrar. The Registrar may authorize the writing-off of investment losses with the approval of the Committee on Budget and Finance. At its request, the Committee on Budget and Finance shall be provided with the official copies of the relevant investment ledger and all account statements received from financial institutions relating to such investment. A detailed statement of investment losses shall be provided to the Presidency, to the Assembly of States Parties through the Committee on Budget and Finance, and to the Auditor.
- (b) Investment losses shall be borne by the trust fund, reserve or special account from which the principal amounts were obtained. (See also rule 110.10 with respect to the writing-off of losses of cash and receivables.)

Regulation 10

Internal control

10.1 The Registrar shall:

- (a) Cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received and that payments have not previously been made;
- (b) Designate the officers who may receive moneys, incur obligations and make payments on behalf of the Court;
- (c) Maintain an internal financial control which shall provide for effective current examination and/or review of financial transactions in order to ensure:
 - (i) The regularity of the receipt, custody and disposal of all funds and other financial resources of the Court;
 - (ii) The conformity of obligations and expenditures with the appropriations or other financial provisions voted by the Assembly of States Parties, or with the purposes and rules relating to trust funds and special accounts;
 - (iii) The economic use of the resources of the Court.

Internal audit**Rule 110.1****Internal financial control**

- (a) There shall be an Office of Internal Audit which shall conduct independent audits of the financial transactions and the administrative systems underlying such transactions, in conformity with generally accepted common auditing standards and notably evaluating compliance of all transactions with established regulations, rules, policies, procedures

and administrative instructions. As a result of its audit, the Office of Internal Audit shall provide comments and recommendations to the Registrar and, in areas falling under the authority of the Prosecutor, by virtue of article 42, paragraph 2, of the Rome Statute, also to the Prosecutor.

- (b) The Office of Internal Audit shall have free access to all books, records and other documents which are, in its opinion, necessary for the performance of the audit.
- 10.2 Obligations for the current financial period or commitments for current and future financial periods shall be incurred only after allotments or other appropriate authorizations have been made in writing under the authority of the Registrar.

Obligations

Rule 110.2

Authority

The utilization of all funds requires the prior authorization of the Registrar, who is responsible for ensuring that the obligations of the Court remain within the appropriations as adopted by the Assembly of States Parties, and are incurred only for the purposes approved by the Assembly of States Parties. In areas falling under the authority of the Prosecutor, by virtue of article 42, paragraph 2, of the Rome Statute, the Registrar shall authorize the utilization of funds upon the request of the Office of the Prosecutor.

Rule 110.3

Certification and approval

Notwithstanding bank signatory functions assigned in accordance with rule 108.2, all commitments, obligations and expenditures require at least two authorizing signatures, in either conventional or electronic form. All commitments, obligations and expenditures must first be signed ("certified") by a duly designated Certifying Officer (rule 110.4). Following certification, duly designated Approving Officers (rule 110.5) must then sign to "approve" the payments and the recording of expenditures in the accounts. Expenditures recorded against an established, certified obligation do not require additional certification provided that they do not exceed the amount obligated by more than 10 per cent or €1,500 (or its equivalent in other currencies), whichever is lower. Expenditures under €1,500 (or its equivalent in other currencies), for which the recording of an obligation is unnecessary, require both certification and approval.

Rule 110.4

Certifying Officers

- (a) One or more officials shall be designated by the Registrar as the Certifying Officer(s) for the account(s) pertaining to a section or subsection of an approved budget. Certifying authority and responsibility is assigned on a personal basis and cannot be delegated. A Certifying Officer

cannot exercise the approving functions assigned in accordance with rule 110.5. The Office of the Prosecutor will communicate to the Registrar the names of those officials that should be designated as the Certifying Officer(s) in areas falling under the authority of the Prosecutor, by virtue of article 42, paragraph 2, of the Rome Statute.

- (b) Certifying Officers are responsible for managing the utilization of resources, including posts, in accordance with the purposes for which those resources were approved, the principles of efficiency and effectiveness, and the Financial Regulations and Rules of the Court. Certifying Officers must maintain detailed records of all obligations and expenditures against the accounts for which they have been delegated responsibility. They must be prepared to submit any supporting documents, explanations and justifications requested by the Registrar.

Rule 110.5

Approving Officers

- (a) One or more officials shall be designated by the Registrar as the Approving Officer(s), to approve the entry into the accounts of expenditures relating to contracts, agreements, purchase orders and other forms of undertaking.
- (b) Approving Officers shall give their approval after verifying that:
 - (i) The commitment, obligation or expenditure has been certified by a duly designated Certifying Officer;
 - (ii) Payment has not previously been made;
 - (iii) Supporting documents have no irregularities on their face which indicate that the payment is not properly due;
 - (iv) Services, supplies or equipment have been received in accordance with the contract, agreement, purchase order or other form of undertaking by which they were ordered and, if the cost exceeds €3,000 (or its equivalent in other currencies), in accordance with the purpose for which the relevant financial obligation was established.

Approving officers shall not approve a payment if any other information known to them would bar the payment.
- (c) Approving Officers must maintain detailed records and must be prepared to submit any supporting documents, explanations and justifications requested by the Registrar.
- (d) Approving authority and responsibility is assigned on a personal basis and cannot be delegated. An Approving Officer cannot exercise the certifying functions assigned in accordance with rule 110.4 or the bank signatory functions assigned in accordance with rule 108.2.

Rule 110.6

Establishment and revision of obligations

- (a) Apart from the employment of staff against an authorized staffing table, and consequential commitments under the Staff Regulations and Rules, no

undertaking, including by contract, agreement or purchase order, for an amount exceeding €3,000 (or its equivalent in other currencies) shall be entered into until the appropriate credit(s) has/have been reserved in the accounts. This shall be done through the recording of an obligation(s), against which relevant payments or disbursements, made only on fulfilment of contractual and other obligations, shall be recorded as expenditure. An obligation shall be recorded in the accounts as unliquidated during the period set forth in regulation 4.5 and until such point as it is re-obligated, liquidated or cancelled in accordance with regulation 4.5.

- (b) If, in the time that elapses between the establishment of an obligation and the processing of final payment, the cost of the relevant goods or services has, for whatever reason, increased by less than €3,000 (or its equivalent in other currencies) or 10 per cent of the obligation, whichever is lower, no change need be made to the amount of the original obligation. If, however, the increase in costs exceeds either of these thresholds, the original obligation must be revised to reflect this increase in requirements and further certification is required. All increases in obligations, including those resulting from currency fluctuations, shall be subject to the same procedures as apply to the incurring of original obligations.

Rule 110.7

Review, re-obligation and cancellation of obligations

- (a) Outstanding obligations must be reviewed periodically by the responsible Certifying Officer(s). If an obligation is determined to be valid but cannot be liquidated during the period set forth in regulation 4.4, the provisions of regulation 4.5 shall be applied. Obligations that are no longer valid shall be cancelled from the accounts forthwith, and the resulting credit surrendered.
- (b) When any obligation previously recorded in the accounts is, for any reason, reduced (other than by payment) or cancelled, the Certifying Officer shall accordingly ensure that appropriate adjustments are recorded in the accounts.

Rule 110.8

Obligating documents

An obligation must be based on a formal contract, agreement, purchase order or other form of undertaking, or on a liability recognized by the Court. All obligations must be supported by an appropriate obligating document.

Management services agreements

Rule 110.9

Management and other support services

- (a) Management and other support services may be provided to other international courts or in support of activities in the field of international justice financed from trust funds or special accounts on a reimbursable,

reciprocal or other basis as are consistent with the independence and impartiality of the Court as well as its policies, aims and activities. The management and other support service shall be approved by the Registrar and by the Office of the Prosecutor, if the management and other support service is related to areas falling under the authority of the Prosecutor, by virtue of article 42, paragraph 2, of the Rome Statute.

- (b) Each management services and support services agreement shall be covered by a written agreement between the Court and the entity on whose behalf the services are to be provided. Such agreements shall, inter alia, specify the services which the Court is to provide in return for full reimbursement to the Court of any costs incurred by the Court in providing these services.
 - (c) Separate accounts shall be maintained to record all financial transactions relating to management services agreements. Any interest earned on funds held shall be credited to the respective management services account. The amounts included in the agreement for reimbursement of costs to the Court shall be charged to the related management services account and credited to the Court's account as extrabudgetary income.
- 10.3 The Registrar may make such ex gratia payments as he or she deems to be necessary in the interest of the Court, provided that the statement of such payments shall be submitted to the Assembly of States Parties with the accounts.
- 10.4 The Registrar may, after full investigation, authorize the writing-off of losses of cash, stores and other assets, provided that a statement of all such amounts written off shall be submitted to the Auditor with the accounts and reported to the Assembly of States Parties.

Writing off losses of cash, receivables and property

Rule 110.10

Writing off losses of cash and receivables

- (a) The Registrar may, after full investigation, authorize the writing off of losses of cash and the book value of accounts and receivables deemed to be irrecoverable. A detailed statement of losses of cash and receivables shall be provided to the Auditor not later than three months following the end of the financial period.
- (b) The investigation shall, in each case, fix the responsibility, if any, attaching to any Court official for the loss or losses. Such official(s) may be required to reimburse the Court either partially or in full. Final determination as to all charges to be made against staff members or others as the result of losses will be made by the Registrar.

Rule 110.11

Writing off losses of property

- (a) The Registrar may, after full investigation, authorize the writing off of losses of property of the Court, and adjust the record to bring the balance

shown into conformity with actual, physical property. A detailed statement of losses of non-expendable property shall be provided to the Auditor not later than three months following the end of the financial period.

- (b) The investigation shall, in each case, fix the responsibility, if any, attaching to any Court official for the loss or losses. Such official(s) may be required to reimburse the Court either partially or in full. Final determination as to all charges to be made against staff members or others as a result of losses will be made by the Registrar.

10.5 Substantial purchases of equipment, supplies and other requirements as specified in the Financial Rules shall be by tender. Such tenders shall be invited by advertisement, except where the Registrar, with the approval of the Presidency, and in accordance with the Financial Rules, deems that, in the interests of the Court, a departure from the rule is desirable.

Procurement

Rule 110.12

General principles

Procurement functions include all actions necessary for the acquisition, by purchase or lease, of property, including products and real property, and of services, including works. The following general principles shall be given due consideration when exercising the procurement functions of the Court:

- (a) Best value for money;
- (b) Fairness, integrity and transparency;
- (c) Effective international competition;
- (d) The interests of the Court.

Rule 110.13

Authority and responsibility on procurement

- (a) The Registrar is accountable for all procurement functions of the Court. He/she shall establish the procurement systems of the Court and shall ensure that procurement functions are carried out in accordance with the relevant financial regulations and rules. To this end, the Registrar shall:
 - (i) Establish the necessary controls, including those for delegation of authority;
 - (ii) Issue administrative instructions to protect the integrity of the procurement process and the interests of the Court;
 - (iii) Establish Procurement Review Committees (rule 110.14).
- (b) No procurement contract shall be entered into on behalf of the Court except by the Registrar or a chief procurement officer designated by the Registrar. With regard to other procurement functions, authority may be further delegated to other officials.

Rule 110.14**Procurement Review Committees**

- (a) The Registrar shall establish a Procurement Review Committee at the seat of the Court, to render written advice to the Registrar on procurement actions leading to the award or amendment of procurement contracts, which, for purposes of these Regulations and Rules, includes agreements or other written instruments such as purchase orders, and contracts that involve income to the Court. The Registrar shall establish the composition and the terms of reference of the Committee, which shall include the types and monetary values of proposed procurement actions subject to review.
- (b) At offices away from the seat of the Court, the Registrar may, in consultation with the head of that office, establish Procurement Review Committees, if this is warranted by the volume of local procurement actions of that office.
- (c) Where the advice of a Procurement Review Committee is required, no commitment may be entered into before such advice is acted upon by the Registrar or his/her authorized delegate. In cases where the Registrar or his/her authorized delegate decides not to accept the advice of such Committee, he/she shall record in writing the reasons for the decision.

Rule 110.15**Competition**

Except as provided in rule 110.17, procurement contracts shall be awarded on the basis of effective competition, and to this end the competitive process shall, as necessary, include:

- (a) Acquisition planning for developing an overall procurement strategy and procurement methodologies;
- (b) Market research for identifying potential suppliers;
- (c) Consideration of prudent commercial practices;
- (d) Formal methods of solicitation, utilizing invitations to bid or requests for proposals on the basis of advertisement or direct solicitation of invited suppliers; or informal methods of solicitation, such as requests for quotations. The Registrar shall issue administrative instructions concerning the types of procurement activities and monetary values for which such methods of solicitation are to be used.

Competition should be on as wide a geographical basis as practicable and suited to market circumstances. The Registrar may, however, in the interest of the Court, determine that specific invitations to bid or requests for proposals shall be limited to suppliers from States Parties only.

Rule 110.16**Formal methods of solicitation**

- (a) When a formal invitation to bid has been issued, the procurement contract shall be awarded to the qualified bidder whose bid substantially conforms

to the requirements set forth in the solicitation document and is evaluated to be the lowest cost to the Court.

- (b) When a formal request for proposals has been issued, the procurement contract shall be awarded to the qualified proposer whose proposal is the most responsive to the requirements set forth in the solicitation document.
- (c) The Registrar may, in the interest of the Court, reject bids or proposals for a particular procurement action, recording the reasons for rejection in writing. The Registrar shall then determine whether to undertake a new solicitation, or to directly negotiate a procurement contract pursuant to rule 110.17 (b), or to terminate or suspend the procurement action.

Rule 110.17

Exceptions to the use of formal methods of solicitation

- (a) The Registrar may determine for a particular procurement action that using formal methods of solicitation is not in the best interest of the Court:
 - (i) When there is no competitive marketplace for the requirement, such as where a monopoly exists, where prices are fixed by legislation or government regulation, or where the requirement involves a proprietary product or service;
 - (ii) When there has been a previous determination or there is a need to standardize the requirement;
 - (iii) When the proposed procurement contract is the result of cooperation with an organization of the United Nations system, pursuant to rule 110.18;
 - (iv) When offers for identical products and services have been obtained competitively within a reasonable period and the prices and conditions offered remain competitive;
 - (v) When, within a reasonable prior period, a formal solicitation has not produced satisfactory results;
 - (vi) When the proposed procurement contract is for the purchase or lease of real property;
 - (vii) When there is a genuine exigency for the requirement;
 - (viii) When the proposed procurement contract relates to obtaining services that cannot be objectively evaluated;
 - (ix) When the Registrar has determined that a formal solicitation will not give satisfactory results;
 - (x) When the value of the procurement is below the monetary threshold established for formal methods of solicitation.
- (b) When a determination is made pursuant to paragraph (a) above, the Registrar shall record the reasons in writing and may then award a procurement contract, either on the basis of an informal method of solicitation, or on the basis of a directly negotiated contract, to a qualified

vendor whose offer substantially conforms to the requirement at an acceptable price.

Rule 110.18

Cooperation

- (a) The Registrar may cooperate with organizations of the United Nations system to meet the procurement requirements of the Court, including those of offices away from the seat of the Court, provided that the regulations and rules of those organizations are consistent with those of the Court. The Registrar may, as appropriate, enter into agreements for such purposes. Such cooperation may include carrying out common procurement actions together, or the Court entering into a contract in reliance on a procurement decision of a United Nations organization, or requesting a United Nations organization to carry out procurement activities on behalf of the Court.
- (b) The Registrar may, to the extent authorized by the Committee on Budget and Finance, cooperate with the Government of a State Party, another public international organization, non-governmental organization or specialized private enterprise in respect of procurement activities and, as appropriate, enter into agreements for such purposes.

Rule 110.19

Written contracts

- (a) Written procurement contracts shall be used to formalize every procurement for a monetary value over specific thresholds established by the Registrar. Such arrangements shall, as appropriate, specify in detail:
 - (i) The nature of the products or services being procured;
 - (ii) The quantity being procured;
 - (iii) The contract or unit price;
 - (iv) The period covered;
 - (v) Conditions to be fulfilled, including the Court's general conditions of contract;
 - (vi) Terms of delivery and payment;
 - (vii) Name and address of supplier.
- (b) The requirement for written procurement contracts shall not be interpreted to restrict the use of any electronic means of data interchange. Before using any electronic means of data interchange, the Registrar shall ensure that the electronic data interchange system is capable of ensuring authentication and confidentiality of the information.

Property management

Rule 110.20

Authority and responsibility on property management

- (a) The Registrar is responsible for the management of the property of the Court, including all systems governing its receipt, recording, utilization, safe keeping, maintenance and disposal, including by sale, and shall designate the officials responsible for performing property management functions.
- (b) A summary statement of non-expendable Court property shall be provided to the Auditor not later than three months following the end of the financial period (see rule 111.8 (b) (ii)).

Rule 110.21

Physical inventories

Physical inventories shall be taken of supplies, equipment or other property of the Court or entrusted to the charge of the Court at such intervals as deemed necessary to ensure adequate control over such property. Where property is of a kind used and/or administered by only one organizational unit, the Registrar may, at his or her discretion, delegate his or her responsibility for making arrangements for the conduct of physical inventories to the head of that organizational unit.

Rule 110.22

Property Survey Board

- (a) The Registrar shall establish a Property Survey Board, to render written advice to her/him in respect of loss, damage or other discrepancy regarding the property of the Court. The Registrar shall establish the composition and terms of reference of the Board, which shall include procedures for determining the cause of such loss, damage or other discrepancy, the disposal action in accordance with rule 110.27, and the degree of responsibility, if any, attaching to any Court official or other party for such loss, damage or other discrepancy.
- (b) Where the advice of the Board is required, no final action in respect of the loss, damage or other discrepancy may be taken before such advice is received. In cases where the Registrar decides not to accept the advice of the Board, she/he shall record in writing the reasons for that decision.

Rule 110.23

Receipt of supplies and equipment

All supplies, equipment or other property received by the Court shall immediately be inspected to ensure that their condition is satisfactory and in accordance with the terms of the related purchase contract. A receiving report shall be issued for all items received and they shall immediately be entered into the appropriate property inventory.

Rule 110.24**Property issues to individuals**

The issue to individuals of equipment or other property for their use (e.g. tools, cameras, etc.) shall be recorded in the property records as "issued on loan". The records shall be supported by a receipt from the individual concerned, and such receipts shall be renewed every year. In case the individual is transferred to another organizational unit or is separated from the service, the property shall be returned to stock and the loan record cancelled.

Rule 110.25**Transfer between organizational units**

Issues of supplies, equipment or other property from one organizational unit to another which are not expected to be returned shall be transferred from the records of the issuing organizational unit to the records of the receiving unit. In such cases, the latter shall provide a receipt to support the records of the issuing unit. Where there is an expectation of an eventual return of the items to the issuing unit, it will be shown as "issued on loan" in the records of the issuing unit and as "received on loan" in the records of the receiving unit.

Rule 110.26**Vouchers**

All transactions related to supplies, equipment or other property shall be recorded, and these records shall be supported by appropriate vouchers or evidence of receipt and issue, except for such items where the maintenance of detailed records is deemed to be uneconomical or impractical by the Registrar and the Auditor.

Rule 110.27**Sale/disposal of property**

- (a) The Registrar shall be responsible for the disposal of property by sale. He/she may delegate authority as necessary.
- (b) Sales of supplies, equipment or other property declared surplus or unserviceable shall be based on competitive bidding, unless the Property Survey Board:
 - (i) Estimates that the sales value is less than €5,000;
 - (ii) Considers that the exchange of property in partial or full payment for the replacement equipment or supplies is in the best interests of the Court;
 - (iii) Deems it appropriate to transfer surplus property from one office or programme for use in another and determines the fair market value at which the transfer(s) shall be effected;
 - (iv) Determines that the destruction of the surplus or unserviceable material will be more economical or is required by law or by the nature of the property;

- (v) Determines that the interests of the Court will be served by disposal by gift or at nominal prices to the United Nations or any other intergovernmental organization, a Government or government agency or some other non-profit organization.
- (c) Except as provided for in paragraph (b) above, property shall be sold on the basis of payments on or before delivery.

Regulation 11

The accounts

- 11.1 The Registrar shall submit to the Auditor accounts for the financial period not later than 31 March following the end of such period. In addition, the Registrar shall maintain, for management purposes, such accounting records as are necessary. The accounts for the financial period shall show:
- (a) The income and expenditures of all funds;
 - (b) The status of appropriations, including:
 - (i) The original budget appropriations;
 - (ii) The appropriations as modified by any transfers;
 - (iii) Credits, if any, other than the appropriations adopted by the Assembly of States Parties;
 - (iv) The amounts charged against those appropriations and/or other credits;
 - (c) The assets and liabilities of the Court.
- The Registrar shall also give such other information as may be appropriate to indicate the current financial position of the Court.
- 11.2 The accounts of the Court shall be presented in the currency of the statutory headquarters of the Court. Accounting records may, however, be kept in such other currency as the Registrar may deem necessary.
- 11.3 Appropriate separate accounts shall be maintained for all trust funds, reserve and special accounts.

Rule 111.1

Authority and responsibility for accounts

Responsibility for the accounts is assigned to the Registrar. He/she shall prescribe and maintain financial records and subsidiary records. He/she shall establish all accounting procedures of the Court and designate the officials responsible for performing accounting functions.

Rule 111.2

Principal accounts

In accordance with regulations 11.1 and 11.3, the principal accounts of the Court shall include detailed, comprehensive and up-to-date records of assets and liabilities for all sources of funds. The principal accounts shall consist of:

- (a) Programme budget accounts, showing
 - (i) Original appropriations;
 - (ii) Appropriations as modified by transfers;
 - (iii) Credits (other than appropriations made available by the Assembly of States Parties);
 - (iv) Expenditures, including payments and other disbursements and unliquidated obligations;
 - (v) Unencumbered balances of allotments and appropriations;
- (b) General ledger accounts, showing: all cash at banks, investments, receivables and other assets, payables and other liabilities;
- (c) The Working Capital Fund and all trust funds or other special accounts.

Rule 111.3

Accrual basis accounting

Unless otherwise directed by the Registrar, or by the particular terms governing the operation of a trust fund, reserve or special account, all financial transactions shall be recorded in the accounts on an accrual basis.

Rule 111.4

Currency of accounting records

All accounts shall be maintained in euros. At offices away from the seat of the Court, accounts may also be maintained in the currency of the country in which they are situated provided that all amounts are recorded both in local currency and in the euro equivalent.

Rule 111.5

Accounting for exchange rate fluctuations

- (a) The Registrar shall establish the operational rates of exchange between the euro and other currencies, on the basis of the operational rates of exchange established by the Secretariat of the United Nations. The operational rate(s) of exchange shall be used for the recording of all Court transactions.
- (b) Payments in currencies other than the euro will be determined on the basis of the operational rate(s) of exchange prevailing at the time of payment. Any difference between the actual amount(s) received on exchange and the amount(s) that would have been obtained at the operational rate(s) of exchange shall be accounted for as loss or gain on exchange.
- (c) When closing the final accounts for a financial period, any negative balance on the account for "loss or gain on exchange" shall be debited to the relevant budget account, while any positive balance shall be credited to miscellaneous income.

Rule 111.6

Accounting for proceeds from the sale of property

The proceeds from the sale of property shall be credited as miscellaneous income except:

- (a) Where the Property Survey Board has recommended the application of these proceeds directly against the purchase price of replacement equipment or supplies (any balance shall be taken into account as miscellaneous income);
- (b) When the trade-in property is not considered to be a sale, and the allowance shall be applied against the cost of the replacement property;
- (c) Where the normal practice is to secure and use certain material or equipment in connection with a contract and to salvage and sell such material or equipment at a later stage;
- (d) When the proceeds from the sale of surplus equipment shall be credited to the relevant programme account, provided that it has not been closed;
- (e) When equipment transferred from one programme for use in another and the account of the releasing programme is open, the fair market value of such equipment shall be credited to the account of the releasing programme and charged to the account of the receiving programme.

Rule 111.7

Accounting for commitments against future financial periods

Obligations established prior to the financial period to which they pertain, pursuant to regulation 3.7 and rule 103.5, shall be recorded against a deferred charge account. Deferred charges shall be transferred to the appropriate account when the necessary appropriations and funds become available.

Rule 111.8

Financial statements

- (a) For all accounts of the Court, financial statements covering the financial period, as of 31 December, shall be submitted to the Auditor in euros not later than 31 March following the end of such period. Copies of financial statements shall also be transmitted to the Committee on Budget and Finance. Additional financial statements may be prepared as and when the Registrar deems necessary.
- (b) Financial statements submitted to the Auditor for all accounts shall include:
 - (i) A statement of income, expenditures (including ex gratia payments) and changes in reserves and fund balances;
 - (ii) A statement of assets (including written-off assets), liabilities, reserves and fund balances;
 - (iii) A statement of cash flows;

- (iv) Such other schedules as may be required;
- (v) Notes to the financial statements.

Rule 111.9

Archives

Accounting records, other financial and property records, and all supporting documents shall be retained for such periods as may be determined by the Registrar, through administrative instruction, in agreement with the Auditor. This period may not be less than ten years. Once this period has elapsed the records and supporting documents may be destroyed on the authority of the Registrar. Where appropriate, such records and supporting documents shall be preserved by electronic means. Records on activities and transactions in areas falling under the authority of the Prosecutor, by virtue of article 42, paragraph 2, of the Rome Statute, may only be destroyed with the explicit consent of the Prosecutor.

Regulation 12

Audit

- 12.1 The Assembly of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors or an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed.
- 12.2 The audit shall be conducted in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly of States Parties and in accordance with the additional terms of reference set out in the annex to these Regulations.
- 12.3 The Auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, the internal financial controls and, in general, the administration and management of the Court.
- 12.4 The Auditor shall be completely independent and solely responsible for the conduct of the audit.
- 12.5 The Assembly of States Parties may request the Auditor to perform certain specific examinations and issue separate reports on the results.
- 12.6 The Registrar shall provide the Auditor with the facilities required in the performance of the audit.
- 12.7 The Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period, which shall include such information as the Auditor deems necessary with regard to matters referred to in regulation 12.3 and in the additional terms of reference as set out in the annex to these Regulations.
- 12.8 The Registrar, in consultation with the other organs of the Court referred to in article 34, subparagraphs (a) and (c), of the Rome Statute, shall examine the audit reports, including reports referred to in regulation 12.5, and shall forward

the financial statements and the audit report to the Committee on Budget and Finance, with such comments on the audit report as they deem appropriate.

- 12.9 The Committee on Budget and Finance shall examine the financial statements and audit reports, including reports referred to in regulation 12.5 and the comments of the Registrar and other organs of the Court referred to in article 34, subparagraphs (a) and (c), of the Rome Statute, and shall forward them to the Assembly of States Parties, with such comments as it deems appropriate, for consideration and approval.

Regulation 13

General provisions

- 13.1 These Regulations shall become effective on a date to be decided upon by the Assembly of States Parties and shall apply to the initial financial period agreed to by the Assembly of States Parties and to subsequent financial periods as provided for in regulation 2.1.

- 13.2 These Regulations may be amended by the Assembly of States Parties.

Rule 113.1

Effective date

These Rules shall become effective on the same day on which the Regulations become effective.

Rule 113.2

Amendment of Rules

- (a) These Rules may be amended by the Assembly of States Parties.
- (b) Unless the Assembly of States Parties is seized of a specific proposal for amendment of a rule, the Presidency, acting upon proposals jointly presented by and in agreement with the Prosecutor and the Registrar, may amend the Rules if the Presidency is convinced that the amendment contributes towards better ensuring the principles of effective financial administration and the exercise of economy, as enshrined in regulation 1.3.
- (c) An amendment enacted by the Presidency will apply provisionally until such time as the Assembly of States Parties, acting upon a recommendation of the Committee on Budget and Finance, decides to endorse the amendment. If the Assembly of States Parties decides not to endorse the amendment, the unamended rule, or any rule that the Assembly of States Parties decides to adopt in its place, shall become effective as of the day on which the Assembly of States Parties takes that decision.